STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 96-598

November 15, 1996

CENTRAL MAINE POWER COMPANY
Re: Annual Demand Side Management,
Filed Pursuant to ARP Docket
No. 92-345

ORDER

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY OF DECISION

This proceeding is required under the CMP ARP to establish a DSM target for the 1997 calendar year. We find that the target for 1997 will be 34 million kWh. In addition, we require CMP to attempt to provide at least 6.25 million kWh in DSM savings for each of three customer groups: residential, commercial and industrial. We also require CMP to file a report in early 1997 outlining the DSM programs with which it expects to achieve these goals. Finally, we limit the amount of DSM expense incurred in 1997 that will be recovered in rates to a maximum of $3.5 million.

II. BACKGROUND

In 1994, the Commission approved a stipulation in Docket No. 92-345(II) that established an Alternative Rate Plan (ARP) for

CMP. Under that stipulation, CMP must propose annual savings targets for CMP's demand side management (DSM) measures. These targets are subject to Commission review and approval. Failure to meet the approved targets can subject CMP to financial penalties ranging from $1.5 million to $5 million. Because the ARP implements a price-cap regime that rewards the Company for increased sales, the ARP created a disincentive for CMP to continue its DSM efforts. The DSM target provisions were included in the stipulation to ensure that CMP continued to comply with statutory requirements for least cost resource planning by engaging in sufficient DSM activities. The target for 1995, the first year of the ARP, was set in the stipulation at 45 million kWhs. The 1996 target of 36 million kWhs was established in a proceeding litigated before the Commission, *Central Maine Power Company, Annual Demand Side Management Target Filed Pursuant to the ARP (92-345)*, Docket No. 95-598.

The present proceeding was initiated when CMP filed its proposed targets and supporting evidence on April 5, 1996. Notice of the proceeding was issued on April 10, 1996. A prehearing conference was held on May 6, 1996, at which the

Examiner granted petitions to intervene filed on behalf of the Office of the Public Advocate (OPA), the Coalition for Sensible Energy (CSE) and the Industrial Energy Consumer Group (IECG). The Examiner adopted a litigation schedule under which interested parties provided prefiled testimony to the Commission. The parties waived evidentiary hearings. Briefs were filed by CMP, the Commission's Advocacy Staff[1], the OPA and the CSE. Reply Briefs were received from CMP, the Staff and the OPA. The Examiner's Report was issued on October 23, 1996 and exceptions thereto were received on October 30, 1996. The Commission deliberated this case and reached its decision on November 4, 1996.

III. CMP's 1997 DSM TARGET

A. Identifying an Optimal DSM Target

Although the parties dispute the various inputs used to determine an optimal DSM annual target, both CMP and the Staff

[1] In this Order, the Commission's Advocacy Staff is referred to as "Staff." The Advocacy Staff participated and prepared and filed its Brief in this case without consultation with or direction from the Commission. Other Commission staff members were assigned to this case as advisors.

agree on the general process employed. The first step is to identify the overall technical potential for DSM on CMP's system. How many kWhs per year could be saved if all end-use appliances on CMP's system were replaced with more efficient substitutes? Measuring technical potential involves providing an inventory of existing appliances and available DSM measures. This work was done for CMP by Xenergy, Inc., a consulting firm. Although the parties differ in their application of the Xenergy results when setting CMP's 1997 DSM target, the results of the Xenergy study itself are not in dispute in this case.

The second step is identifying economic potential, the subset of technically available DSM that can be done cost-effectively. Under Chapter 380 of our rules, the appropriate test of cost-effectiveness is the All Ratepayers Test. Cost-effectiveness is determined by obtaining cost data for available DSM measures and then comparing DSM costs per kWh saved to the costs of providing a kWh on the supply side, *i.e.* avoided costs per kWh. In this manner, it is possible to determine how much of the technically available DSM savings it would be economically efficient to obtain.

Xenergy estimated economic potential DSM on CMP's system at about one billion kWh per year. This means that if all efficient DSM appliance changes were done and the new appliances were used normally for a year, the total reduction in kWhs used on the CMP system would be one billion during that year. These savings would persist during following years as well, perhaps reduced by what would have been the natural rate of replacements of existing appliances with more efficient appliances. All parties also appear to be sufficiently comfortable with Xenergy's results as to economic potential to be willing to work with them as inputs.

The third step in identifying an optimal annual DSM target is estimating market potential, the portion of the economic potential that can reasonably be expected to be captured during a given year and still remain cost-effective. Estimates of market potential generally involve appeals to historical DSM achievements and to the experienced judgment of DSM professionals. They are typically a small portion of the economic potential. We note that if economic potential is one billion kWh/year, and if market potential of 50,000,000 kWh/year

is successfully captured, then the remaining economic potential for the next year is (about) 950,000,000 kWh/year.

The fourth step in identifying an optimal annual DSM target is the use of a resource optimization model (a computer software program, UPLAN in this case) to identify the optimal target. The model includes the market potential DSM as an available resource, as well as existing and available supply side resources, and cost data for each. DSM that has already been contracted is treated as an existing resource. A load forecast for the planning period is provided and the model determines the combination (portfolio) of resources that can meet the utility's projected load at least cost over the planning period.[2] Least cost in this sense means lowest overall utility revenue requirement. The portfolio selected by the model includes the optimal DSM target for the upcoming year.

As we determined in last year's case, more or less than the optimal DSM level may be implemented to avoid rate impacts or to further promote environmental goals. In either case, however,

[2] The parties agreed to use a 15-year planning period in this proceeding, instead of the 30-year period used in previous resource modeling efforts.

the total dollars passing from ratepayers to the utility for the same end-use services will likely be greater. This illustrates the economic efficiency of DSM when implemented according to least cost planning principles.

B. Disputes of the Parties

1. UPLAN Problems

During the early stages of this proceeding, inconsistencies in modeling results due to the use of two different versions of the UPLAN program caused difficulty among the parties and led Staff to judge that the model's outputs could not be relied on. These difficulties were largely resolved by the time CMP filed its supplemental rebuttal testimony, which explained why the prior inconsistencies occurred. Once the modeling dispute was resolved, Staff was able to complete a number of optimization runs, using input assumptions that corrected what it believed were CMP errors. It appears that the parties are now comfortable that modeling problems in the programs have been resolved sufficiently so that our inquiry can focus on the input assumptions, where the parties retain significant differences.

2. Load Forecast

As ordered by the Commission in last year's case, CMP prepared a revised load forecast based on its Fall 1995 kWh Sales Forecast adjusted to reflect energy management savings relative to December 1995. This forecast projects 1% growth over the next five years, which is almost 60 MW lower in 1997 and 142 MW lower in the year 2000 than previous projections. CMP asserts that this change in load forecast is a significant reason for the reduced need for additional energy resources indicated by its model runs. The Staff and OPA do not object to the load forecast itself but disagree that its being lower than the prior forecast has a significant impact on the economic energy savings potential. Witnesses for both parties agreed that the mere fact that a load forecast is lower does not necessarily require a similar drop in optimal DSM levels, because the selection of DSM as a resource is driven by the relationship between DSM costs and avoided costs, not total load. Overall loads may grow or decrease dramatically, but optimal DSM levels may remain unchanged because cost factors dictate the level of DSM which is cost effective. Similarly, optimal DSM levels may change

dramatically if the cost of acquiring the DSM resource or the utility's avoided costs change even though overall load is unchanged.[3]

It is possible that a lower load forecast could contribute to lower avoided costs and thereby reduce the number of economic energy savings projects. However, it appears that slightly higher avoided costs were used in estimating economic potential for this case than were used in Docket No. 95-598. No party produced a sensitivity analysis to answer the question definitively. We agree with Staff and OPA that the lower load forecast used in this case is not a significant factor in the lower energy savings target produced by CMP's model runs. While CMP has produced a lower load forecast for use in this case, it has failed to demonstrate that this lower forecast has altered in any way the cost relationship between DSM costs and avoided costs which drives the selection of an optimal amount of DSM.

[3] The latter effect, a change in optimal DSM levels due to a change in DSM acquisition costs, is implicated by the parties' differing input assumptions regarding CMP's DSM costs. This subject is discussed again below.

3. Potential DSM Savings

The parties presented varying ideas about the amount of DSM potential that should be provided as input to the DSO model. The OPA describes how, it believes, CMP miscalculated the available amount of DSM by considering all economic DSM to be time-dependent and dividing each measure by its estimated useful life. OPA believes that there exists non-time-dependent retrofit and new construction DSM that should be added to the time-dependent burnout and replacement DSM without dividing by useful life. The Staff believes that CMP misinterpreted Xenergy's technical potential numbers as being cumulative from year-to-year rather than representing the total savings achieved annually. CMP thinks that OPA and Staff are both overestimating the potential available by not recognizing the market potential already achieved for some measures, such as "bundle-up", and the fact that some customers will not accept economic energy saving measures for a variety of reasons not related to economics.

We agree with Staff and OPA that CMP's division of economic potential by measure life incorrectly reduces the amount of available DSM input into the model. DSM occurring at the time

of appliance replacement is important, and perhaps especially attractive as a target for the marketing of cost-effective DSM. It is not, however, the only cost-effective DSM available. CMP's error is compounded by its use of the expected life of the **replacement** applications, rather than the expected useful life of the original appliances that would have been replaced by the newer, more energy-efficient models. Therefore, CMP has failed to accurately implement even its own idea to limit the available DSM to replacement measures. Furthermore, we believe that customers' reluctance to accept replacement appliances before the end of the older appliance's useful life is more properly considered when adjusting for market potential. In other words, customer reticence should be reflected in CMP's historic market penetration rates, discussed in the following section.

4. Market Penetration

Starting with its estimate of over 1,000 million kWh of technical potential, Xenergy culled out the non-economic measures by comparing each measure to 1994 avoided costs. Then, as described above, CMP divided the result for certain selected measures by the useful life of each measure. Next, CMP applied

its estimate of a 30% market penetration rate (with sensitivities of 15 and 50%) to provide an estimate of available energy savings of about 67 million kWh as input to the model. The resulting model output is 8 million kWh. To this amount CMP added 9 million kWh to account for already contracted Power Partners programs and 3 million kWh for judgmental reasons. Therefore, CMP's proposed DSM target for non-Power Partners programs is 11 million kWh and its overall target (including Power Partners) is 20 million kWh.

As discussed above, Staff omits the useful life reduction but applies lower market penetration rates of 8 to 11% to arrive at a model input of 75.5 million kWh (113 million kWh in its "high" case). We agree that Staff's figures best reflect the historical accomplishments of CMP and represent the best approximation of CMP's future marketing success. Employing its lower market penetration rates, Staff's runs of the Demand Side Optimization (DSO) model produced an optimal amount of 22 million kWh (30 million kWh in the "high" case) of DSM savings. Then, Staff added 3 million kWh to adjust for CMP's high DSM measure costs to result in an overall target of 34 million kWh, including

9 million of Power Partners. Staff's proposed DSM target for non-Power Partners programs is 25 million kWh.

The OPA agrees with Staff that CMP has overly constrained the DSO model by making too little energy savings available as an input. Without the benefit of model runs but using logic and past history as a guide, OPA believes that CMP should be able to manage DSM programs that would produce 50 million kWh of energy savings including Power Partners. However, OPA recommends a lower target of 36 million kWh that would not cause upward pressure on electricity rates.

5. DSM Measure Costs

Staff, supported by OPA, argues that CMP used inappropriately high DSM measure costs as inputs for its UPLAN optimization runs. CMP used $.252/kWh, which reflects its 1993 costs of $.256/kWh. CMP's costs for other program years were often below $.200/kWh; the weighted average for 1993 through 1995 is $.207/kWh. CMP's figure is more than 20% higher than this

average and would result in considerably less DSM being selected as optimal by the model.[4]

CMP responds that 1993 is the most recent year with complete cost data that is representative of the Company's current DSM activities. Staff counters that the appropriate cost data would be for end-use measures in the options provided to the model, not data for CMP's current activities.

We agree with Staff that end-use cost data would be appropriate and that convincing support for using costs that are representative of only CMP's highest cost year has not been given. We expect that the result is a downward bias in the amount of DSM selected by the model.

6. Analysis

Under traditional regulation, and under the principles carried forward into the ARP, the proper application of least-cost planning principles is important in designing a power system that meets electrical demand at the lowest possible

[4] As discussed earlier, the use of higher DSM costs will result in the selection of a lower amount of optimal DSM. Staff's target included a judgmental adjustment of 3 million kWh to reflect this effect.

cost.[5] Both supply-side and demand-side resources should be considered, as it is often the case that demand-side resources are less expensive than supply-side resources over the useful life of each resource. Lotus Consulting Group's UPLAN Dynamic System Optimization Model is a useful computer tool that compares resources with load over many years, making the massive quantity of calculations necessary to produce the least possible system cost. The modeling process is not perfect, however, and assumptions about future events are far from perfect. Today's power system is not optimum and systems planned for the future will not be optimum no matter how much effort and intelligence are put into the planning process.

Proceedings before the Commission that involved least-cost planning have always been contested at every level and this proceeding is no different. Each party has applied different judgments to the computer models, the input assumptions, and the meaning of results.

[5] We express no opinion here concerning the extent to which least cost planning and DSM should have a role in a restructured electric industry.

The more that model inputs are judgmentally constrained, the less valid are the model's outputs. Put another way, the more that inputs are determined by the exercise of "judgment," the more the end product of the model run will reflect that judgment and the less it will reflect the underlying predictive power of the model itself. It follows that when the inputs are constrained by reducing the potential energy savings through dividing by useful life or estimating market penetration percentages, the options from which the model can choose are very limited. The model's function is to make optimum economic decisions. If the model does not have the opportunity to choose from less than fully-constrained options, the result will be less than optimum. That is not to say that measures should not be constrained at all. It would be unrealistic for the model to be allowed to select only the single most economic measure with all other measures or generation sources being rejected.

C. Decision and Explanation

CMP has proposed a 1997 DSM target of 20 million kWh, at a cost of about $2 million. Staff has proposed a target of 34 million kWh, at an estimated cost of about $3.5 million. OPA has

proposed a target of 36 million kWh, at a cost of no more than $5 million. Staff witness Reishus estimates the rate impact for the CMP proposal at under 0.2% and for the Staff proposal at under 0.3%.

CMP DSM costs are of two types: "hard," which are deferred and collected through an amortization; and "soft," which are collected on an as-spent basis, with reconciliation. Collections of both kinds are in CMP's rates. In 1995 CMP collected $5 million in soft costs and $5.8 million in hard costs. In 1995 CMP spent $8 million in soft costs and $4 million in hard costs.

The dollar value of CMP's DSM savings depends on its avoided costs and on its DSM measure costs, which are in dispute, and on the mix of DSM measures implemented and their benefit/cost ratios. There is some uncertainty and dispute about all of these numbers. Last year, OPA's consultants estimated that 36 million kWh could be achieved with a benefit/cost ratio of 1.92. If this ratio were applied to Staff's proposed 34 million kWh at a cost of $3.5 million, the value of the DSM savings is about $6.7 million.

The short-term revenue and (pre-tax) profit impact on CMP of its DSM activities presents an interesting question.[6] CMP's FERC Form 1 for 1995 shows average revenues at 9.6 cents/kWh. CMP's most recent "settlement" avoided costs for 1996 are 2.7 cents/kWh (annual, first decrement). This would suggest that CMP's average profit on incremental sales is about 6.9 cents/kWh, although probably less for the kWh that would be sold but for DSM (DSM currently concentrates in the larger customer classes). Five cents per kWh may be a reasonable rough approximation for the lost profits on DSM kWhs.

The revenue impact of CMP's proposed 20 million kWh of DSM would be a loss of $1.9 million. The profit impact would be a loss of about $1 million. These losses would continue each year, until CMP's rates are adjusted in a rate case. If similar amounts of DSM were done in the next year, another series of annual losses would be established in addition. For Staff's 34 million kWh of DSM, the revenue impact is $3.3 million, the profit impact $1.7 million.

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[6] The calculations that follow are necessarily imprecise and are done for the purpose of illustration only.

The profit value to CMP of doing 20 million kWh instead of the 45 million contemplated when CMP's rates were calibrated in the ARP Stipulation is $1.25 million, for every succeeding year. If a similar amount of DSM is avoided in a subsequent year, a similar series of additional profits is achieved. It should be no surprise that electric utilities have limited enthusiasm for DSM.

Given these parameters and the preceding discussion, what is the most reasonable proposal for CMP's 1997 DSM target? In our consideration of the disputes of the parties we generally preferred Staff's position. Staff's positions were also supported or arrived at independently by OPA. We recognize that virtually every variable in the equations used to produce an appropriate target is subject to substantial amount of judgment. We further recognize that the parties will reach differing conclusions when exercising their independent judgment. We are struck, however, by some of the methodological errors in CMP's analysis, errors that are difficult to explain except as an attempt to artificially restrict the amount of DSM found to be cost-effective.

The most important dispute was over the amount of achievable DSM to be input into UPLAN. Here CMP's "measure life" adjustment resulted in arbitrarily allowing only 1/14 of available cost-effective DSM to be input. Staff corrected the DSM input and produced optimization runs choosing 22 million kWh (average case) and 30 million kWh (high case). Adding to the average case the 9 million kWh of already contracted Power Partners, the optimization run entailed a DSM target of 31 million kWh. CMP's high DSM measure cost inputs were not changed in Staff's run. To correct for this, a reasonable (though necessarily imprecise) 3 million upward adjustment brings the total to Staff's recommended target of 34 million kWh. We find this to be a more reasonable target than CMP's.

In last year's DSM target case, CMP noted that the electric utility environment was evolving, and now required CMP to have greater flexibility to develop efficiency initiatives that promoted its corporate goals. These goals included the development of customer loyalty, enhancement of the value of CMP products and services and the targeting of efficiency measures to minimize price pressures. In response, this Commission granted

CMP's request for exceptional flexibility to meet the aggressive savings targets established for 1996. We suggested that CMP could achieve its kWh savings in new residences or new and expanded businesses and encouraged CMP to develop innovative approaches to DSM that would have combined traditional energy-saving goals with the Company's marketing goals.

Instead of creatively employing this flexibility to combine DSM activities with economic growth programs, CMP appears to prefer to allow its DSM programs to wither. The record in this proceeding reveals that CMP has not identified any programs that combined, with any creativity, DSM, marketing and economic development. This failure of imagination or, at least, the failure to communicate the fruits of that imagination effectively is profoundly disappointing.

In this case, CMP argued against the use of a bidding process by stating once again that CMP should be permitted to pursue its corporate goals through the direct contact with its customers provided through DSM services. If CMP truly believes that it needs this continued direct customer contact, it should be prepared in the future to demonstrate how it has

constructively employed the opportunities offered in these proceedings.

IV. STAFF'S RFP RECOMMENDATION

A. Legal Authority to Require RFP Process

Staff, supported by the OPA and CSE, has recommended that the Commission require CMP to issue a request for DSM proposals and allow the bids received to set the 1997 target. CMP opposes this proposal, arguing that it would be inconsistent with the provisions of the ARP. We need not address the legal arguments raised by CMP since we determine that we will not require the use of a bidding process.

Although we choose not to implement a bidding process at this time, we recognize that such an approach bears several advantages to the present process. Staff observes that while the ARP Stipulation and the Commission Order approving it envisioned a consensual annual DSM target proceeding, the experience of the last two years indicates that the degree of difference between utility and non-utility parties is vast, leading to protracted litigation and unresolved disagreement. Staff's RFP

recommendation would eliminate this litigation. Furthermore, the Power Partners example shows that DSM contracts can be at well below avoided cost with adequate verification (another area of potential difficult litigation). In addition, in such instances the risk that expected savings may not be achieved is borne by the contractor, instead of the utility.

Nonetheless, we choose not to require CMP to use an RFP approach in the coming year. We reach this conclusion for two primary reasons. First, although we do not rule definitively on the question, our legal authority to require the use of a bidding program is not clear. Even if our authority were clear, we would hesitate to require the use of a process that was not contemplated by the parties when they agreed to the ARP Stipulation. Second, we are troubled by the open-ended nature of a bidding program. Such a process might result in an unacceptably large amount of DSM being contracted for. Even if the resulting DSM measures were all cost-effective, a prohibitive rate impact might result.

Finally, although we reject a bidding program in this case, we put all parties on notice that this subject will be

revisited and explored in greater detail during the mid-term ARP review. That proceeding is a more appropriate forum in which to consider such changes to the ARP and will provide more time in which to consider the issues raised by the potential use of a bidding process.

V. OTHER RECOMMENDATIONS

A. Reporting and DSM Plan

Staff, with the support of the Public Advocate, recommends that the Commission require CMP to file a DSM plan early in 1997 specifying how the Company will achieve its 1997 target. The plan would not require Commission approval and could be subsequently changed by CMP if circumstances required. Staff believes that the plan is needed so that other parties can have better information about CMP's DSM activities than is provided by Chapter 380 quarterly reports. Staff reports to be frustrated in its efforts to obtain such information from CMP during 1996 and explains why, based on the scant reported achievements and vague statements regarding plans, it has doubts that CMP will achieve its 1996 target.

We note the dearth of information in this record about CMP's 1996 DSM performance, and we note as well that when given the chance to produce further evidence in its Briefs, CMP simply stated that DSM performance is addressed in the penalty mechanism of the ARP Stipulation.

Given the above facts, we find that Staff's recommendation is reasonable and we approve it. It will impose little additional regulatory burden and can be viewed as a more precise restatement of our intent in the 1996 DSM order.

B. Sector-specific DSM Goals

The Public Advocate has urged the Commission to establish sector-specific DSM goals, so that the economic efficiency gains of DSM may be shared equitably by all of CMP's customers. The OPA points out that the ARP creates incentives for CMP to offer DSM to its larger customers with competitive options, those who already have discounted rates. Similarly, the CSE proposed that this Commission require CMP to develop a DSM program specifically for small businesses. We note that most of CMP's reported 1996 DSM appears to benefit the large commercial and industrial sectors.

We agree that both residential and small commercial customers should receive at least some share of the DSM benefits that we are here requiring CMP to provide. At the same time, we recognize that CMP must retain sufficient flexibility to take advantage of its best opportunities for DSM projects. Therefore, we require CMP to obtain at least 6.25 million kWh of DSM savings in each of three customer classes: (1) residential customers; (2) commercial customers; and (3) industrial customers. Any savings obtained in 1997 under previously contracted Power Partners programs are not to be credited toward meeting the above targets.

C. Independent DSM Verification

The Public Advocate, citing Staff expectations of upcoming controversy over the verification of CMP's 1996 DSM savings, recommends employment of an independent consultant to perform DSM verification. While we share the Staff and OPA concerns, we expect that CMP's 1997 DSM plan will detail reasonable verification methods. If this does not occur, we will reconsider this recommendation.

D. Limitation on Recovery of DSM Costs

One final issue that was not briefed by the parties but which requires our attention involves the recovery of DSM costs. It has been the practice before this Commission to permit CMP to recover the cost of all cost-effective DSM activities undertaken by CMP. Given the possibility of future electric industry restructuring to promote a more competitive market for electrical energy, there has been growing concern over the potential recovery of utilities' stranded costs. Staff's testimony in this proceeding indicates that CMP's previously-incurred DSM expenses are expected for the near future to exceed the ARP's $7 million annual recovery "ceiling" for DSM costs. This creates the so-called "snowplow" effect in which CMP is unable to recover all of its DSM costs in each year, resulting in a growing unrecovered amount. There was additional evidence in this proceeding that CMP may not be achieving its DSM savings in the most economical ways, thus prompting Staff's suggestion to institute a bidding process for DSM services.

To minimize the growth of additional unrecovered DSM costs and to create an incentive for CMP to achieve its DSM

savings in the most efficient manner possible, we will limit CMP's recovery of DSM costs incurred in 1997 to a maximum of $3.5 million. This figure represents Staff's estimate of CMP's costs to acquire the 34 million kWh in DSM savings required by this Order. Although we do not require the use of competitive bids in this Order, that option remains available to CMP if it believes that the use of a bidding process might assist it in meeting its savings target within this cost ceiling.

VI. CONCLUSION

Therefore, it is

O R D E R E D

1. That CMP's DSM savings target for 1997 is 34 million kWh. Within this overall target, CMP must obtain at least 6.25 million kWh in savings from each of the following three customer classes: (1) residential customers; (2) commercial customers; and (3) industrial customers;

2. That CMP shall file a report with the Commission no later than February 1, 1997, describing, in detail, the programs it intends to use to obtain the DSM savings required by Paragraph 1; and

3. That CMP may not recover more than $3.5 million of any net present value DSM expenses incurred in calendar year 1997.

Dated at Augusta, Maine this 15th day of November, 1996.

BY ORDER OF THE COMMISSION

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Christopher P. Simpson
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.